

DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Plaintiff

V.

CARLOS JAVIER LOPEZ,

Defendant

Case No. 2:04-cr-00375-APG-GWF

ORDER DENYING MOTION TO REDUCE SENTENCE

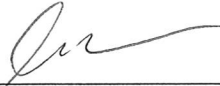
[ECF No. 199]

Defendant Carlos Lopez has filed another motion to reduce his sentence under the First Step Act. ECF No. 199. I denied his prior motion for such relief because Lopez's history of misconduct while incarcerated "strongly indicates he would have difficulty conforming to society's rules upon release and that he remains a danger to the public." ECF No. 198. Lopez argues this constituted double jeopardy, but he offers no legal support for that proposition and I disagree with that proposition. If I cannot consider Lopez's actions while in custody, then I could not properly exercise my discretion in considering the factors under 18 U.S.C. § 3553(a) and the policy statements of the Sentencing Commission.

Further, Lopez admits that under the First Step Act, “[n]o court shall entertain a motion made under this section to reduce a sentence . . . if a previous motion made under this section to reduce the sentence was, after the date of enactment of this Act, denied after a complete review of the motion on the merits.” ECF No. 199 at 3. My denial of Lopez’s prior motion thus precludes me from entertaining his current motion. Although Lopez contends this provision does not apply to him, he does not explain why and I find no reason to circumvent Congress’s clear directive.

1 I THEREFORE DENY Lopez's motion to reduce his sentence (ECF No. 199).

2 DATED this 2nd day of December, 2019.

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5 ANDREW P. GORDON
6 UNITED STATES DISTRICT JUDGE
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